

BEST AVAILABLE COPY**REMARKS**

Claims 1 to 36, 38 to 45, 47, 48, 50, 51, 58 to 65, 67, 68, 70, and 71 have been canceled. Claims 37, 46, 49, 52 to 57, 66, 69 and 72 remain under consideration.

In item no. 1 of the office action, claims 1 to 16 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13 to 34 of copending patent application no. 10/801,733. Claims 1 to 16 have been canceled. Hence, the provisional rejection under the judicially created doctrine of obviousness-type double patenting is now moot.

In item no. 2 of the office action, the drawings were objected to as failing to comply with 37 CFR 1.84 (p)(5) because they do not include the following reference characters mentioned in the description: 630, 830, and 898. The reference signs 630, 830, and 898 have been canceled from the specification. It is believed that these reference signs are not necessary for a clear understanding of the invention. In view of the amendments to the specification, the withdrawal of the objection to the drawings in item no. 2 of the office action is solicited.

In item no. 3 of the office action, the drawings were objected to as failing to comply with 37 CFR 1.84 (p)(5) because they include the following reference characters not mentioned in the description: 126, 136, 226, 236, 336, 426, 436, 536, 634, 636, 684, and 836. The specification has been amended to include the reference characters 126, 136, 226, 236, 336, 426, 436, 536, 634, 636, 684, and 836. In view of the amendments

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to the specification, the withdrawal of the objection to the drawings in item no. 3 of the office action is solicited.

In item no. 4, the disclosure was objected to because of the following informalities: on page 6, line 15, "Figure 24" should be "Figure 21". This informality has been corrected by amending the specification and the withdrawal of the objection in item 4 of the office action is solicited.

In item 5 of the office action, claims 3 to 8, 19 to 24, 39 to 44, and 57 to 64 were rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The text objected to was "tested in accordance with ASTM Test Designation C1338-00", "D2020-92" or "G21-96". Claims 3 to 8, 19 to 24, 39 to 44 and 58 to 64 have been canceled. Claim 57 does not contain any of the text objected to. Hence, the withdrawal of the rejection under 35 USC 112 is solicited.

In item no. 6 of the office action, claims 1 to 8, 13, 17 to 24, 29, 35, 37 to 44, and 53 were rejected under 35 USC 102(b) as being anticipated by Symons (USPN 6,123,795). Claims 1 to 8, 13, 17 to 24, 29, 35, and 38 to 44 have been canceled. Claim 37 and dependent claim 53 have been amended to include additional limitations including the limitation of claim canceled 50 wherein the kraft paper facing of the faced building insulation assembly is bonded to the insulation layer by an asphaltic material that consists essentially of a fungi growth inhibiting agent and an essential plant oil odor-reducing additive in an amount approximating 1 part by weight essential plant oil odor-reducing additive to 10,000 parts by weight asphalt material to substantially eliminate odor that would otherwise be emitted by the asphalt layer and wherein the asphaltic material does not bleed through the kraft paper to mar the appearance of the exposed central field portion of the facing sheet.

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Symons discloses a sheet material comprising a lignocellulosic material such as fiberboard that is impregnated with a composition that includes from .25% to 30% by weight anhydride, from 1.5% to 60% by weight isocyanate resin, and from 5% to 40% by weight bitumen, asphalt, coal tar and pitch wherein the impregnating composition may include a fungicide.

Symons does not disclose or suggest a faced building insulation assembly having a kraft paper facing wherein a kraft paper facing of the faced building insulation assembly is bonded to the insulation layer by an asphaltic material that consists essentially of asphalt, a fungi growth inhibiting agent, and an essential plant oil odor-reducing additive in an amount approximating 1 part by weight essential plant oil odor-reducing additive to 10,000 parts by weight asphalt material to substantially eliminate odor that would otherwise be emitted by the asphalt layer and wherein the asphaltic material does not bleed through the kraft paper to mar the appearance of the exposed central field portion of the facing sheet. In view of the amendments to claim 37, claims 37 and 53 patentably distinguish the subject invention over Symons and the allowance of claims 37 and 53 is solicited.

In item no. 7 of the office action, claims 9 to 12, 25 to 28, and 45 to 48 were rejected under 35 USC 103(a) as being unpatentable over Symons (USPN 6,123,795) in view of Incue (USPN 4,629,645). Claims 9 to 12, 25 to 28, 45, 47 and 48 have been canceled. Claim 46 remains under consideration and depends from claim 37.

Symons discloses a sheet material comprising a lignocellulosic material such as fiberboard that is impregnated with a composition that includes from .25% to 30% by weight anhydride, from 1.5% to 60% by weight isocyanate resin, from 5% to 40% by weight bitumen, asphalt, coal tar and pitch, wherein the impregnating composition may include a fungicide.

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Inoue discloses a mold inhibitive coated film adapted to be adhesively stuck to an object such as a wall, ceiling or the like. One of the fungi growth inhibiting agents disclosed is 2-(4-Thiazolyl) Benzimidazole in an amount from 0.05 to 10% by weight of the coating.

However, Symons and Inoue do not disclose or suggest a faced building insulation assembly having a kraft paper facing wherein a kraft paper facing of the faced building insulation assembly is bonded to the insulation layer by an asphaltic material that consists essentially of asphalt, a fungi growth inhibiting agent, and an essential plant oil odor-reducing additive in an amount approximating 1 part by weight essential plant oil odor-reducing additive to 10,000 parts by weight asphalt material to substantially eliminate odor that would otherwise be emitted by the asphalt layer and wherein the asphaltic material does not bleed through the kraft paper to mar the appearance of the exposed central field portion of the facing sheet. In view of the amendments to claim 37 from which claim 46 depends, claim 46 patentably distinguishes the subject invention over Symons and Inoue and the allowance of claim 46 is solicited.

In item no. 8 of the office action, claims 14, 30, and 50 were rejected under 35 USC 103(a) as being unpatentable over Symons (USPN 6,123,795) in view of Fischer et al (WO 01/72125 A2). Claims 14, 30, and 50 have been canceled. Claim 37, which remains under consideration, includes the limitation of claim 50.

Symons discloses a sheet material comprising a lignocellulosic material such as fiberboard that is impregnated with a composition that includes from .25% to 30% by weight anhydride, from 1.5% to 60% by weight isocyanate resin, from 5% to 40% by weight bitumen, asphalt, coal tar and pitch, wherein the impregnating composition may include a fungicide.

Fischer et al discloses active compound combinations comprising known cyclic ketoenols on the one hand and other known insecticidally active compounds on the

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other hand which are highly suitable for controlling animal pests such as insects and undesired acarids. Fischer et al indicates that bitumen or bituminous substances may be used in such compounds as binders in amounts up to 10% by weight and that other agents such as colorants, pigments, water repellants, odour-masking agents, and inhibitors or anticorrosive agents and the like can also be used in such compounds.

The Symons composition is not a fungi resistant asphalt but a composition of an anhydride and an isocyanate resin that only includes from 5% to 40% by weight bitumen, asphalt, coal tar and pitch. While Fischer et al discloses compounds having insecticidal and acaricidal properties that can include small amounts of bituminous substances as a binder and odour-masking agents, neither Symons nor Fischer et al disclose or suggest a faced building insulation assembly having a kraft paper facing wherein a kraft paper facing of the faced building insulation assembly is bonded to the insulation layer by an asphaltic material that consists essentially of asphalt, a fungi growth inhibiting agent, and an essential plant oil odor-reducing additive in an amount approximating 1 part by weight essential plant oil odor-reducing additive to 10,000 parts by weight asphalt material to substantially eliminate odor that would otherwise be emitted by the asphalt layer and wherein the asphaltic material does not bleed through the kraft paper to mar the appearance of the exposed central field portion of the facing sheet. In view of the amendments to claim 37, claim 37 patentably distinguishes the subject invention over Symons and Fischer et al and the allowance of claim 37 is solicited.

In item no. 9 of the office action, claims 15, 16, 31, 32, 51, and 52 were rejected under 35 USC 103(a) as being unpatentable over Symons (USPN 6,123,795) in view of Inoue (USPN 4,629,645) and Beilfuss et al (US 2001/0021711 A1). Claims 15, 16, 31, 32, and 51 have been canceled. Claim 52, which depends from claim 37, remains under consideration.

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Beilfuss et al disclose the use of fungicide and a stabilizer, such as zinc pyrithione in water-based industrial products, household products, and cosmetic products. However, Beilfuss et al does not otherwise supplement the disclosures of Symons and Inoue. Accordingly, claim 52 is patentable over Symons, Inoue, and Beilfuss et al for the same reasons discussed above in connection with the rejection of claim 46 in item no. 7 of the office action based on Symons and Inoue and the allowance of claim 52 is solicited.

In item no. 10 of the office action, claims 33, 34, 36, and 54 to 56 were rejected under 35 USC 103(a) as being unpatentable over Symons (USPN 6,123,795) in view of Weinstein et al (US 2001/0030018 A1). Claims 33, 34, and 36 have been canceled. Claims 54 to 56, which depend from claim 37, remain under consideration.

Symons discloses a sheet material comprising a lignocellulosic material such as fiberboard that is impregnated with a composition that includes from .25% to 30% by weight anhydride, from 1.5% to 60% by weight isocyanate resin, from 5% to 40% by weight bitumen, asphalt, coal tar and pitch, wherein the impregnating composition may include a fungicide.

Weinstein et al teach a faced building insulation assembly comprising an insulation layer and a facing comprising a sheet material having a kraft paper central field portion overlaying and bonded to the first major surface of the insulation layer.

The Symons composition is not a fungi resistant asphalt but a composition of an anhydride and an isocyanate resin that only includes from 5% to 40% by weight bitumen, asphalt, coal tar and pitch. While Weinstein et al discloses a faced building insulation assembly, neither Symons nor Weinstein et al disclose or suggest a faced building insulation assembly having a kraft paper facing wherein a kraft paper facing of the faced building insulation assembly is bonded to the insulation layer by an asphaltic material that consists essentially of asphalt, a fungi growth inhibiting agent, and an essential plant

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oil odor-reducing additive in an amount approximating 1 part by weight essential plant oil odor-reducing additive to 10,000 parts by weight asphalt material to substantially eliminate odor that would otherwise be emitted by the asphalt layer and wherein the asphaltic material does not bleed through the kraft paper to mar the appearance of the exposed central field portion of the facing sheet. In view of the amendments to claim 37, from which claims 54 to 56 depend, claims 54 to 56 patentably distinguishes the subject invention over Symons and Weinstein et al and the allowance of claims 54 to 56 is solicited.

In item no. 11 of the office action, claims 57 to 64 and 69 were rejected under 35 USC 103(a) as being unpatentable over Moras (USPN 6,279,284) in view of Symons (USPN 6,123,795). Claims 58 to 64 have been canceled. Claims 57 and 69 remain under consideration. Claim 69 depends from claim 57.

Moras discloses an insulation system wherein unfaced fibrous insulation batts are contained within cavities overlaid by semi-rigid panels 20 such as $\frac{3}{4}$ inch thick fibreboard with a metallic foil or foil coated kraft paper adhered to the fibreboard with a low density polythene glue.

Symons discloses a sheet material comprising a lignocellulosic material such as fiberboard that is impregnated with a composition that includes from .25% to 30% by weight anhydride, from 1.5% to 60% by weight isocyanate resin, from 5% to 40% by weight bitumen, asphalt, coal tar and pitch, wherein the impregnating composition may include a fungicide.

The Symons composition is not a fungi resistant asphalt but a composition of an anhydride and an isocyanate resin that only includes from 5% to 40% by weight bitumen, asphalt, coal tar and pitch. While Moras discloses an insulation system where unfaced insulation in cavities is overlaid with a fibreboard that is faced with a metallic foil or a foil coated kraft paper adhered to the fibreboard with a low density polythene glue, neither

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Moras nor Symons disclose or suggest an insulation system wherein the cavities are covered with a kraft paper sheet roll good between 2 and 6 mils in thickness wherein the kraft paper sheet has an asphalt layer on a first major surface that consists essentially of asphalt, a fungi growth inhibiting agent, and an essential plant oil odor-reducing additive in an amount approximating 1 part by weight essential plant oil odor-reducing additive to 10,000 parts by weight asphalt material to substantially eliminate odor that would otherwise be emitted by the asphalt layer and wherein the asphaltic material does not bleed through the kraft paper to mar the appearance of the exposed surface of the kraft paper sheet. In view of the amendments to claim 57, claims 57 and 69 patentably distinguish the subject invention over Moras and Symons and the allowance of claims 57 and 69 is solicited.

In item no. 12 of the office action, claims 65 to 68 were rejected under 35 USC 103(a) as being unpatentable over Moras (USPN 6,279,284) in view of Symons (USPN 6,123,795) as applied to claim 57 above, and further in view of Inoue (USPN 4,629,645). Claims 65, 67 and 68 have been canceled. Claim 66, which depends from claim 57, remains under consideration.

Inoue discloses a mold inhibitive coated film adapted to be adhesively stuck to an object such as a wall, ceiling or the like. One of the fungi growth inhibiting agents disclosed is 2-(4-Thiazolyl) Benzimidazole in an amount from 0.05 to 10% by weight of the coating. However, Inoue does not otherwise supplement the disclosures of Moras and Symons. Accordingly, claim 66 is patentable over Moras, Symons, and Inoue for the same reasons discussed above in connection with the rejection of claim 57 in item no. 11 of the office action based on Moras and Symons and the allowance of claim 66 is solicited.

In item no. 13 of the office action, claim 70 was rejected under 35 USC 103(a) as being unpatentable over Moras (USPN 6,279,284) in view of Symons (USPN 6,123,795)

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as applied to claim 57 above, and further in view of Fischer et al (WO 01/72125 A2).

Claim 70 has been canceled, but the limitation was included in claim 57.

Moras discloses an insulation system wherein unfaced fibrous insulation batts are contained within cavities overlaid by semi-rigid panels 20 such as $\frac{3}{4}$ inch thick fibreboard with a metallic foil or foil coated kraft paper adhered to the fibreboard with a low density polythene glue.

Symons discloses a sheet material comprising a lignocellulosic material such as fiberboard that is impregnated with a composition that includes from .25% to 30% by weight anhydride, from 1.5% to 60% by weight isocyanate resin, from 5% to 40% by weight bitumen, asphalt, coal tar and pitch, wherein the impregnating composition may include a fungicide.

Fischer et al discloses active compound combinations comprising known cyclic ketoenols on the one hand and other known insecticidally active compounds on the other hand which are highly suitable for controlling animal pests such as insects and undesired acarids. Fischer et al indicates that bitumen or bituminous substances may be used in such compounds as binders in amounts up to 10% by weight and that other agents such as colorants, pigments, water repellants, odour-masking agents, and inhibitors or anticorrosive agents and the like can also be used in such compounds.

The Symons composition is not a fungi resistant asphalt but a composition of an anhydride and an isocyanate resin that only includes from 5% to 40% by weight bitumen, asphalt, coal tar and pitch. While Moras discloses an insulation system where unfaced insulation in cavities is overlaid with a fibreboard that is faced with a metallic foil or a foil coated kraft paper adhered to the fibreboard with a low density polythene glue, neither Moras nor Symons disclose or suggest an insulation system wherein the cavities are covered with a kraft paper sheet roll good between 2 and 6 mils in thickness wherein the kraft paper sheet has an asphalt layer on a first major surface that consists essentially of